

§ 1214.47

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(q) To borrow funds necessary for the startup expenses of the order;

(r) To invest assessments collected under this part in accordance with § 1214.50;

(s) To pay the cost of the activities with assessments collected under § 1214.52;

(t) To recommend adjustments to the assessments as provided in § 1214.52;

(u) To periodically prepare, make public and to make available to producers and importers, reports of its activities and, at least once each fiscal period, to make public an accounting of funds received and expended; and

(v) To cause its books to be audited by an independent certified public accountant at the end of each fiscal period and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary.

§ 1214.47 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(a) Any action that would be a conflict of interest;

(b) Using funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national, and foreign governments or any subdivision thereof, other than recommending to the Secretary amendments to the Order; and

(c) No program, plan, or project including advertising shall be false or misleading or disparaging to another agricultural commodity. Christmas trees of all origins shall be treated equally.

EXPENSES AND ASSESSMENTS

§ 1214.50 Budget and expenses.

(a) Within 60 days after assessments are due to the Board, and as may be necessary thereafter, the Board shall prepare and submit to the Secretary a budget for the fiscal period covering its anticipated expenses and disbursements in administering this part. Each budget shall include:

(1) A statement of objectives and strategy for each program, plan, or project;

(2) A summary of anticipated revenue, with comparative data or at least one preceding year, except for the initial budget;

(3) A summary of proposed expenditures for each program, plan, or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding year, except for the initial budget.

(b) Each budget shall provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in this part.

(c) Subject to this section, any amendment or addition to an approved budget must be approved by the Secretary, including shifting funds from one program, plan, or project to another.

(d) The Board is authorized to incur such expenses, including provision for a reserve, as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. Such expenses shall be paid from funds received by the Board.

(e) With approval of the Secretary, the Board may borrow money for the payment of administrative expenses, subject to the same fiscal, budget, and audit controls as other funds of the Board. Any such funds borrowed by the Board shall be expended for startup costs and are limited to the first year of operation of the Board.

(f) The Board may accept voluntary contributions, but these shall only be used to pay expenses incurred in the conduct of programs, plans, and projects approved by the Secretary. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use.

(g) In accordance with § 1214.54, the Board shall deposit funds in a refund escrow account and shall not use such funds for expenses, except as provided for in that section.

(h) The Board may also receive funds provided through the Department's

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Foreign Agricultural Service or from other sources, with the approval of the Secretary, for authorized activities.

(i) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, enforcement, and supervision of the Order, including all referendum costs in connection with the Order.

(j) For fiscal years beginning 3 or more years after the date of the establishment of the Board, the Board may not expend for administration, maintenance, and functioning of the Board in a fiscal year an amount that exceeds 10 percent of the assessment and other income received by the Board. Reimbursements to the Secretary required under paragraph (i) of this section are excluded from this limitation on spending.

(k) The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established: *Provided:* That, the funds in the reserve do not exceed one fiscal period's budget of expenses. Subject to approval by the Secretary, such reserve funds may be used to defray any expenses authorized under this part.

(l) Pending disbursement of assessments and all other revenue under a budget approved by the Secretary, the Board may invest assessments and all other revenues collected under this section in:

- (1) Obligations of the United States or any agency of the United States;
- (2) General obligations of any State or any political subdivision of a State;
- (3) Interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or
- (4) Obligations fully guaranteed as to principal interest by the United States.

§ 1214.51 Financial statements.

(a) The Board shall prepare and submit quarterly financial statements to the Secretary, or at any other time requested by the Secretary. Each such financial statement shall include, but not be limited to, a balance sheet, income statement, and expense budget. The expense budget shall show expenditures during the time period covered by

the report, year-to-date expenditures, and the unexpended budget.

(b) Each financial statement shall be submitted to the Secretary within 45 days after the end of the time period to which it applies.

(c) The Board shall submit annually to the Secretary an annual financial statement within 90 days after the end of the fiscal period to which it applies.

§ 1214.52 Assessments.

(a) The funds to cover the Board's expenses shall be paid from assessments on producers, importers, and donations from any person including those not subject to assessments under this Order, and other funds available to the Board including those collected pursuant to § 1214.62 and subject to the limitations contained therein.

(b) The payment of assessments on domestic Christmas trees that are cut and sold will be the responsibility of the producer who produces the Christmas trees or causes the trees to be cut.

(c) Each importer of Christmas trees shall pay the assessment to the Board on Christmas trees imported for marketing in the United States, through Customs. If Customs does not collect an assessment from an importer, the importer will be responsible for paying the assessment directly to the Board 30 calendar days after importation.

(1) The assessment rate for imported Christmas trees shall be the same or equivalent to the rate for Christmas trees domestically produced in the United States.

(2) The import assessment shall be uniformly applied to imported Christmas trees that are identified by the numbers 0604.91.00.20, 0604.91.00.40, and 0604.91.00.60 in the Harmonized Tariff Schedule of the United States or any other numbers used to identify Christmas trees in that schedule.

(3) The assessments due on imported Christmas trees shall be paid when they enter into the United States.

(d) Such assessments shall be levied at an initial rate of 15 cents per Christmas tree domestically produced or imported into the United States. The assessment rate will be reviewed by the Board, after the initial referendum is conducted pursuant to this subpart. The assessment rate may be increased